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June 19, 2009

**VIA HAND DELIVERY**

The Honorable Daniel E. Shearouse  
Clerk, SC Supreme Court  
P. O. Box 11330  
Columbia, SC 29211

RE: South Carolina Energy Users Committee v. The South Carolina Public Service  
Commission; South Carolina Electric & Gas; Office of Regulatory Staff  
Tracking No.: 2009-127906

Dear Mr. Shearouse:

Enclosed please find a Motion filed on behalf of the Appellant in the above. I have enclosed an extra copy of this Motion which I would ask you to date stamp and return to me via my courier. Last, enclosed is Elliott & Elliott, P. A. check # 7211 in the amount of \$25 representing the filing fee. By copy of this letter, I am serving all parties of record.

If you have questions, please feel free to contact me.

Sincerely,

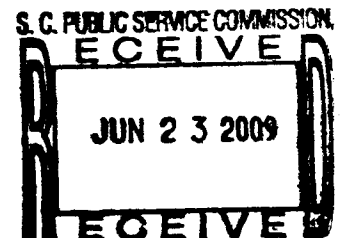
Elliott & Elliott, P.A.

  
Scott Elliott

SE/jcl

cc: All Parties of Record w/enc.

Enclosures



THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM  
THE SOUTH CAROLINA PUBLIC SERVICE COMMISSION

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Docket No. 2008-196-E  
Tracking No. 2009-127906

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South Carolina Energy  
Users Committee,

Appellant,

v.

The South Carolina Public  
Service Commission; South  
Carolina Electric & Gas; and  
Office of Regulatory Staff,

Respondents.

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MOTION

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The South Carolina Energy Users Committee, Appellant in the above, moves for an order of this Court determining the identity of the parties to this appeal for the purposes of service, briefing, and argument of the issues raised herein.

The Appellant appeals Orders No. 2009-104A and 2009-218 of the South Carolina Public Service Commission ("Commission") determining certain issues affecting the rights of the parties under the Utility Facility Siting and Environmental Protection Act, S.C. Code Ann. §§58-33-10 *et seq.* and the Base Load Review Act, S.C. Code Ann. §§58-33-210, *et seq.*

South Carolina Electric & Gas filed its Application under the Utility Facility Siting and Environmental Protection Act and the Base Load Review Act May 30, 2008. The trial before the Commission began December 1, 2008 and continued for approximately three weeks.

The Office of Regulatory Staff is a party to these proceedings by virtue of S.C. Code Ann. §58-4-10(B) and §58-33-140(1)(b). The Commission accepted petitions to intervene in the docket from the following parties: CMC Steel South Carolina, Pamela Greenlaw, Friends of the Earth, Mildred A. McKinley, Lawrence P. Newton, the South Carolina Energy Users Committee, Ruth Thomas, Maxine Warshauer and Samuel Baker, and Joseph Wojcicki. (Order No. 2009-104(A) at pages 3-4.)

South Carolina Electric & Gas, the Office of Regulatory Staff, the South Carolina Energy Users Committee and the Friends of the Earth all appeared at trial and participated represented by counsel. CMC Steel South Carolina did not appear at the hearing. Ms. Greenlaw, Ms. Warshauer and Mr. Wojcicki each appeared pro se. Mr. Newton waived his right to participate as an intervenor. Ms. Thomas did not appear at the hearing (the Commission did permit Ms. Greenlaw to sponsor the testimony of Ms. Thomas' witness). Ms. McKinley appeared on the first and third day of the hearing but did not appear thereafter. (Order No. 2009-104(A) at page 4).

In addition to the parties set forth above, the South Carolina Department of Health and Environmental Control, South Carolina Department of Natural Resources, South Carolina Department of Parks, Recreation and Tourism and the Town of Jenkinsville were listed as parties pursuant to the authority of the S. C. Code Ann. §58-

33-140. However, these agencies and town but did not appear or take part in the proceedings. (Order No. 2009-104(A) at page 4).

The Commission service list for this docket also included the following: David L. Logsdon of the South Carolina Department of Commerce, John V. Walsh of the South Carolina Department of Transportation, Roger Stroup of the South Carolina Department of Archives and History, and David Owen of the South Carolina Forestry Commission. Of these persons, John V. Walsh, Chief Engineer for Planning, Location and Design for the South Carolina Department of Transportation filed comments with the Public Service Commission July 23, 2008. However, neither Mr. Walsh, Mr. Logsdon, Mr. Stroup, and Mr. Owen nor the agencies they represent were identified by the Public Service Commission as parties. Nor did these persons and the agencies they represent appear or participate at trial.

The rights of South Carolina Electric and Gas will be directly affected by the outcome of this appeal. The South Carolina Energy Users Committee and the Friends of the Earth have appealed both orders identified above; the rights of these parties will be directly affected by the outcome of the appeal. The Office of Regulatory Staff is a necessary party by statute.

No other party to the proceedings below has appealed from the orders referenced above or petitioned to join and participate in the instant appeal.

Under the South Carolina Appellate Court Rules, the parties to any appeal have responsibility to create the record on appeal, to brief the issues raised by the appeal and to serve briefs, motions and the record on appeal. It is respectfully submitted that those parties who failed to participate in the proceedings before the Commission below or

who failed to appeal from the orders of the Commission or intervene herein, are neither parties to this appeal nor necessary to the outcome of this appeal.

Therefore, the South Carolina Energy Users Committee hereby moves for an order of the Court declaring the parties before it in the instant appeal to be as follows:

South Carolina Energy Users Committee,  
South Carolina Electric & Gas,  
Office of Regulatory Staff, and  
Friends of the Earth.

Only these parties should be permitted to participate for the purposes of service, briefing, and argument of the issues raised herein as required by the South Carolina Rules of Appellate Procedure.

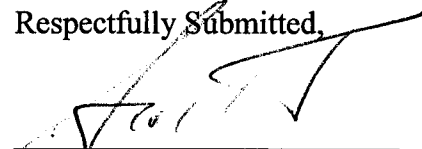
Conversely, the South Carolina Energy Users Committee moves that the following persons shall not be considered parties to the appeal, shall not be permitted to participate in argument and shall have no expectation of being served with briefs, motions, or any other pleading permitted by the South Carolina Appellate Rules.

CMC Steel South Carolina  
Pamela Greenlaw  
Mildred A. McKinley  
Lawrence P. Newton  
Ruth Thomas  
Maxine Warshauer and Samuel Baker  
David L. Logsdon (South Carolina Department of Commerce)  
John V. Walsh (South Carolina Department of Transportation)  
David Owen (South Carolina Forestry Commission)  
Roger Stroup (South Carolina Department of Archives & History)  
South Carolina Department of Health & Environmental Control  
South Carolina Department of Natural Resources  
South Carolina Department of Parks, Recreation & Tourism  
Town of Jenkinsville  
Joseph Wojcicki

WHEREFORE the South Carolina Energy Users Committee moves for an order of this Court declaring South Carolina Energy Users Committee, South Carolina

Electric & Gas, Office of Regulatory Staff and Friends of the Earth to be the parties to this appeal for the purpose of the following as of service, briefing, and argument of the issues raised herein.

Respectfully Submitted,



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Scott Elliott  
Elliott & Elliott, P.A.  
721 Olive Street  
Columbia, SC 29205  
803-771-0555  
Attorney for Appellant

June 19, 2009

## CERTIFICATE OF SERVICE

The undersigned employee of Elliott & Elliott, P.A. does hereby certify that she has served below listed parties with a copy of the pleading(s) indicated below by mailing a copy of same to them in the United States mail, by regular mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

RE: South Carolina Energy Users Committee v. The South Carolina Public Service  
Commission; South Carolina Electric & Gas; Office of Regulatory Staff  
Docket No.: 2008-196-E  
Tracking No.: 2009-127906

PLEADING: MOTION

### PARTIES SERVED:

|  |   |
|--|---|
| Charles L.A. Terreni, Esquire<br>SC Public Service Commission<br>P. O. Box 11649<br>Columbia, SC 29211<br>803-896-5100<br>SC Public Service Commission             | C. Dukes Scott, Esquire<br>Executive Director<br>Office of Regulatory Staff<br>1401 Main Street, Suite 900<br>Columbia, SC 29201<br>803-737-0800<br>Office of Regulatory Staff                                      |
| Joseph Melchers, Esquire<br>Chief Counsel<br>SC Public Service Commission<br>P. O. Box 11649<br>Columbia, SC 29211<br>803-896-5100<br>SC Public Service Commission | Shannon Bowyer Hudson, Esquire<br>Office of Regulatory Staff<br>1401 Main Street, Suite 900<br>Columbia, SC 29201<br>803-737-0800<br>Office of Regulatory Staff   |
| Belton T. Zeigler, Esquire<br>Pope Zeigler, LLC<br>P. O. Box 11509<br>Columbia, SC 29211<br>803-354-4900<br>South Carolina Electric & Gas                          | Damon E. Xenopoulos, Esquire<br>Brickfield Burchette Ritts &<br>Stone, PC<br>1025 Thomas Jefferson St., NW<br>8 <sup>th</sup> Floor, West Tower<br>Washington, DC 20007<br>202-342-0800<br>CMC Steel South Carolina |
| K. Chad Burgess, Esquire<br>Willoughby & Hoefer, P.A.<br>1426 Main Street,<br>Mail Code 130<br>Columbia, SC 29201<br>803-217-8141<br>South Carolina Electric & Gas | E. Wade Mullins, III, Esquire<br>Bruner Powell Robbins Wall &<br>Mullins, LLC<br>P. O. Box 61110<br>Columbia, SC 29260<br>803-252-7693<br>CMC Steel South Carolina  |

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|--|--|
| Mitchell Willoughby, Esquire<br>Willoughby & Hoefer, P.A.<br>Post Office Box 8416<br>Columbia, SC, 29202<br>803-252-3300<br>South Carolina Electric & Gas    | Robert Guild, Esquire<br>314 Pall Mall<br>Columbia, SC, 29201<br>803-252-1419<br>Friends of the Earth                |
| Florence P. Belser, Esquire<br>Office of Regulatory Staff<br>1401 Main Street, Suite 900<br>Columbia, SC 29201<br>803-737-0800<br>Office of Regulatory Staff | Lawrence P. Newton<br>57 Grove Hall Lane<br>Columbia, SC, 29212<br>803-238-9558                                      |
| Nanette S. Edwards, Esquire<br>Office of Regulatory Staff<br>1401 Main Street, Suite 900<br>Columbia, SC 29201<br>803-737-0800<br>Office of Regulatory Staff | David L. Logsdon<br>SC Department of Commerce<br>1201 Main Street, Suite 1600<br>Columbia, SC, 29201<br>803-737-0450 |

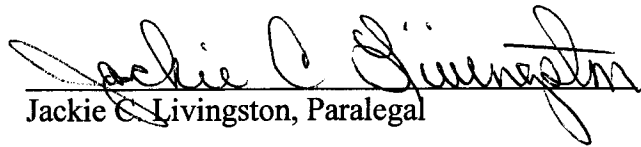
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|---|---|
| John V. Walsh, Deputy State Highway Engineer<br>SC Department of Transportation<br>Post Office Box 191<br>Columbia, SC, 29202<br>803-737-7900 | Roger Stroup, Director<br>SC Department of Archives and History<br>8301 Parklane Road<br>Columbia, SC, 29221<br>803-896-6100                                  |
| David Owen<br>SC Forestry Commission<br>Post Office Box 21707<br>Columbia, SC, 29221<br>803-896-8829  | Carlisle Roberts, Esquire<br>SC Department of Health and Environmental Control<br>Legal Department<br>2600 Bull Street<br>Columbia, SC, 29201<br>803-898-3350 |
| John Frampton, Director<br>SC Department of Natural Resources<br>Post Office Box 167<br>Columbia, SC, 29202<br>803-734-4007                   | Chad Prosser, Director<br>SC Department of Parks, Recreation and Tourism<br>1205 Pendleton Street, Suite 248<br>Columbia, SC, 29201<br>803-734-0166           |
| Honorable Gregrey Ginyard, Mayor<br>Town of Jenkinsville<br>366 Lakeview Drive<br>Jenkinsville, SC , 29065                                    | Maxine Warshauer<br>3526 Boundbrook Lane<br>Columbia, SC 29206<br>803-787-4332  |
| Joseph Wojcicki<br>820 East Steele Road<br>West Columbia, SC, 29170<br>803-755-6808   | Mildred A. McKinley<br>2021 Carroll Drive<br>West Columbia, SC, 29169<br>803-739-6927   |



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|---|---|
| Ruth Thomas<br>1339 Sinkler Road<br>Columbia, SC, 29206<br>803-782-3000 | Pamela Greenlaw<br>1001 Wotan Road<br>Columbia, SC, 29229<br>803-736-2977 |
|---|---|

DATE SERVED:

June 19, 2009

  
Jackie C. Livingston, Paralegal

June 19, 2009